

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6765 of 1999

to

FIRST APPEALNo 6804 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE C.K.BUCH

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

DY COLLECTOR

Versus

BHIKHA GOKAL

Appearance:

MR SJ DAVE, AGP for Applicants

MR VIMAL M PATEL for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE C.K.BUCH

Date of decision: 29/03/2000

ORAL JUDGEMENT (PER : M.H.KADRI, J)

Admitted. Learned Counsel Mr. Vimal Patel waives service of notice of admission on behalf of the Respondents. Learned counsel for the parties have supplied relevant documents and evidence for our perusal for the purpose of deciding these appeals. With the consent of the parties, these appeals are heard today and disposed of by this judgment.

2. The appellants, by means of filing this group of First Appeals under Sec.54 of the Land Acquisition Act,1894 (to be referred to as the "Act" for short) read with Sec.96 of the Code of Civil Procedure, have challenged the common judgment and award dated 18th November, 1998 passed by the learned Jt. District Judge, Junagadh in a group of Land Reference Cases bearing Nos. Nos.137/87 to 143/87, 95/88 to 98/88, 104/88 to 107/88, 181/88 & 182/88, 308/88 to 310/88, 344/88 to 349/88, 376/88 to 380/88, 436/88, 445/88 to 450/88, 1176/89 and 299/90 .

3. Agricultural lands of village Isanpur and Kathrota of Taluka & District Junagadh came to be acquired for the public purpose of Uben Irrigation Scheme by issuance of notification under Sec.4(1) of the Act published in the Govt. Gazette on 31st October,1985. Land Acq.Officer, after following the procedure prescribed under the Act, made his award and offered compensation at the rate of Rs.130/ per Are for the acquired agricultural lands. The claimants were of the opinion that the compensation offered by the Land Acq.Officer was inadequate and according to them, Land Acq. Officer ought to have fixed the market price of the acquired lands at the rate of Rs. 625/ per Are. Claimants filed applications under Sec.18 of the Act requiring the Land Acq. Officer to refer their application for determination of the market value of the acquired lands to the District Court, Junagadh. Accordingly, applications filed by the claimants were referred to the District Court which came to be numbered as Land Reference Cases as mentioned in para-2 above.

4. Reference Court, on the oral as well as documentary evidence produced by the claimants, determined the market value of the acquired lands at the rate of Rs. 438/ per Are for Bagayat lands and at the rate of Rs. 380/ per Are for Jirayat lands. Reference

Court also granted statutory benefits under the Act to the claimants vide the common judgment and award dated 18th November, 1998 which is challenged by the appellants by filing this group of first appeals.

5. Bare reading of the schedule attached to the common judgment and award makes it abundantly clear that in all reference cases, the claim of the compensation awarded by the Reference Court do not exceed Rs. 35,000/. For ready reference, statement showing claim in each first appeal is given herein below :-

First Appeal Claim in Appeal

Number. Rs. Ps.

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6765/99 07,084-00

6766/99 18,483-00

6767/99 08,485-00

6768/99 12,803-00

6769/99 12,350-00

6770/99 17,195-00

6771/99 15,092-00

6772/99 18,735-00

6773/99 10,410-00

6774/99 07,792-00

6775/99 10,964-00

6776/99 07,145-00

6777/99 10,164-00

6778/99 19,847-00

6779/99 15,289-00

6780/99 06,344-00

6781/99 11,950-00

6782/99 06,403-00

6783/99 07,271-00

6784/99 01,358-00

6785/99 03,172-00

6786/99 09,892-00

6787/99 16,434-00

6788/99 09,240-00

6789/99 06,498-00

6790/99 10,533-00

6791/99 01,290-00

6792/99 03,169-00

6793/99 05,402-00

6794/99 25,500-00

6795/99 04,031-00

6796/99 13,826-00

6797/99 01,016-00

6798/99 14,414-00

6799/99

05,503-00

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|---------|-----------|
| 6800/99 | 04,807-00 |
| 6801/99 | 05,131-00 |
| 6802/99 | 02,556-00 |
| 6803/99 | 08,152-00 |
| 6804/99 | 21,774-00 |

It is the consistent practice which is followed by various Division Benches of this Court that wherein claim involved in the Land Reference Cases is less than Rs.35,000/, appeal should be dismissed on the ground that it involves petty claim. Claimants have lost their only source of livelihood i.e. their agricultural lands which were compulsorily acquired for the public purpose of Uben Irrigation Scheme. If these appeals are admitted and kept for final hearing, it would cause great hardship and financial loss to the claimants because they will have to incur expenses of engaging advocate and other miscellaneous expenses. Therefore, these appeals require to be dismissed on the ground of petty claim alone. We, however, make it clear that we have not gone into the merits or de-merits of the References filed by the claimants and this judgment will not be cited as a precedent for the similar appeals filed for the determination of the market value of the acquired lands arising from the very acquisition of Uben Irrigation Scheme.

6. As a result of foregoing discussion, First Appeal Nos. 6765/99 to 6804/99 are hereby dismissed. No order as to costs.

29.3.2000 [M.H.KADRI, J]

[C.K. BUCH, J]

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